

quately prepare a defense. Although evidentiary detail as to a few of the missing pieces was supplied in the Government's answer to the Defendants' motion for a bill of particulars, 'it is the settled rule that a bill of particulars cannot save an invalid indictment.' *Russell v. United States*, *supra*, at 770; *Beitel v. United States*, *supra*, at 671. The indictment completely relied on the statutes for stating an offense. An indictment in the language of the offended statute is valid if the words of the statute 'fully, directly and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offense intended to be punished.' But if the statute is pleaded in the indictment in general terms 'it must be accompanied with such a statement of the facts and circumstances as will inform the accused of the specific offense, coming under the general description with which he is charged.' *Russell v. United States*, *supra*, at 765.

"This seems especially necessary as to acts asserted to be criminal offenses under a statutory scheme as complex as this one and in which severe penalties of fine and imprisonment may be exacted even as misdemeanors when the actions taken or omitted are determined to have been done with no 'intent to defraud or mislead.' 21 USCA § 333 (a), (b). When, as this statute permits, innocuous and morally innocent actions may send men to jail for long periods of time because mistakes in processing or labeling, etc., result in economic adulteration, it is essential that the offense (or offenses) be identified and charged in terms which adequately relate the actions to the statute.¹³ This in no sense implies that we require the pleading of evidence.

"For the reasons discussed above, all of the Counts were defective. The judgments of conviction are reversed and the causes remanded with directions to dismiss the indictments.

"REVERSED AND REMANDED."

30475. Orange juice. (F.D.C. No. 42487. S. Nos. 28-512 P et al.)

INDICTMENT RETURNED: 1-13-64, S. Dist. Tex., against Gordon E. Van Liew, Dell Van Liew, Arthur E. Becker, and Verne C. Madison of Houston, Tex.

SHIPPED: 3-2-59 and 7-20-59, from Houston, Tex., to New Orleans and Lake Charles, La.

CHARGE: 403(a)—the labeling of the article contained statements which represented that the article consisted wholly of pure fresh orange juice, which statements were false since the article consisted of pure fresh orange juice mixed with a solution of sugar, water, and other ingredients; 403(b)—the article was offered for sale under the name of another food, pure fresh orange juice; and 403(i)(2)—the label of the article failed to bear the common or usual names of the ingredients of the article.

PLEA: Guilty.

DISPOSITION: 10-15-64. Each defendant was given a sentence of 1 year in prison which was suspended, and was placed on probation for 5 years. In addition, Verne C. Madison was fined \$1,000 and each of the other three defendants was fined \$2,000.

30476. Orange juice. (Inj. No. 404.)

COMPLAINT FOR INJUNCTION FILED: 5-4-61, S. Dist. Tex., against Cal-Tex Citrus Juice, Inc., Houston, Tex., and Gordon E. Van Liew, president, Dell Van Liew, vice president, and Arthur R. Becker, secretary-treasurer.

¹³ These comments rest on the literal terms of the statute which we assume, without deciding, to be valid. In view of our disposition we intimate no view on any of the other contentions of the Defendants. Specifically, we do not reach the claim that in the absence of promulgated standards of identity, there is no lawfully ascertainable criterion of guilt even under cases such as *United States v. Behrman*, 1922, 258 U.S. 280, 42 S. Ct. 303, 66 L. Ed. 619; *United States v. Bahint*, 1922, 258 U.S. 250, 42 S. Ct. 301, 66 L. Ed. 604; *United States v. Dotterweich*, 1943, 320 U.S. 277, 64 S. Ct. 134, 88 L. Ed. 48; and see, *Standard Oil Co. of Texas v. United States*, 5 Cir., 1962, 307 F.2d 120.